APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,717	02/08/2006	Louis Robert Litwin	PU030177	4024

24498   7590   09/20/2007
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EXAMINER
NGUYEN, QUANG N

ART UNIT	PAPER NUMBER
2141	

MAIL DATE	DELIVERY MODE
09/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>16 May 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-21</u> is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-21</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>28 February 2006</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some * c)☐ None of:

         1.☐ Certified copies of the priority documents have been received.

         2.☐ Certified copies of the priority documents have been received in Application No. _____.

         3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
     Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

Detailed Action

1.   This Office Action is responsive to the Amendment filed on 05/16/2007. Claims

1-2, 5, 9, 11-17 and 21 have been amended. Claims 1-21 are pending for examination.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3.   **Claims 1-4, 6-7, 9-12 and 15-21 are rejected under 35 U.S.C. 102(e) as being**

anticipated by Hsu (2004/0205158 A1).

4.   As to claim 1, **Hsu** teaches a method, comprising:

scanning, by a wireless local area network scanner in a wireless device, to detect

the presence of a wireless local area network WLAN *(i.e., the Mobile Station MS tunes*

to WLAN frequencies and actively or passively scans for the WLAN beacon, using a

WLAN tuner) **(Hsu, paragraphs [0064] and [0078-0080])**;

detecting presence of said wireless local area network by said wireless local area network scanner **(Hsu, paragraphs [0043], [0061] and [0064])**;

contacting a base station of said wireless local area network by a wireless local area network baseband circuit in said wireless device in response to detection of said wireless local area network to request location of said base station *(upon receipt of the WLAN request from the MS, the Base Station BS may transmit the information such as location identification for the WLAN)* **(Hsu, paragraphs [0046], [0050] and [0052])**; and

receiving location of said wireless local area network *(the base station BS transmits location information identifies the Access Points APs supporting the WLAN)* **(Hsu, paragraphs [0046], [0050] and [0052])**.

5.   As to claim 2, **Hsu** teaches the method of claim 1, further comprising logging, on said wireless device, said location of said base station for future reference **(Hsu, paragraphs [0076] and [0083])**.

6.   As to claim 3, **Hsu** teaches the method of claim 1, wherein said location comprises a map coordinate location of said base station **(Hsu, paragraph [0052])**.

7.   As to claim 4, **Hsu** teaches the method of claim 1, wherein said location comprises one of a street address and longitude/latitude coordinates for said base station **(Hsu, paragraph [0052])**.

8.   As to claim 6, **Hsu** teaches method of claim 2, wherein said logging of said location is one of automated logging and a manual logging **(Hsu, paragraphs [0027] and [0030])**.

9.   As to claim 7, **Hsu** teaches the method of claim 1, wherein said location comprises global position coordinates **(Hsu, paragraph [0052])**.

10.   As to claim 9, **Hsu** teaches a wireless device configured to carry out the following steps:

scanning to detect the presence of a wireless local area network WLAN *(i.e., the Mobile Station MS tunes to WLAN frequencies and actively or passively scans for the WLAN beacon, thus, it's necessary/inherently that the MS is equipped with a WLAN scanner to detect the presence of a WLAN)* **(Hsu, paragraphs [0043], [0061] and [0064])**;

requesting a base station of said wireless local area network detected for a location of said base station *(upon receipt of the WLAN request from the MS, the Base Station BS may transmit the information such as location identification for the WLAN)* **(Hsu, paragraphs [0046], [0050] and [0052])**; and

receiving and logging said location, on said wireless device, of said base station of said wireless local area network *(the MS receives location information identifying the Access Points APs supporting the WLAN, wherein the location information may be stored in the Preference Database)* **(Hsu, paragraphs [0052] and [0083])**.

11.   Claims 10-12 are corresponding wireless device claims of method claims 3-4 and

7; therefore, they are rejected under the same rationale.

12.   As to claim 15, **Hsu** teaches the wireless device of claim 9, further comprising

the step of displaying a location of a base station of a wireless local area network

logged previously that is near said wireless device *(i.e., the display may provide the AP*

location in the context of a local map in a graphical manner or as a textual message)

(Hsu, paragraph [0052]).

13.   Claims 16-21 are corresponding mobile device claims of method claims 1-4, 7

and wireless device claim 15; therefore, they are rejected under the same rationale.

Claim Rejections - 35 USC § 103

14.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

15.   **Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hsu,**

in view of Rao (US 2004/0264395 A1).

16.   As to claim 5, **Hsu** teaches the method of claim 1, but does not explicitly teach comparing a MAC address of said base station to a database of known locations of base stations or wireless local area networks and not requesting a location if the contacted said base station is already in said database.

In an analogous art, **Rao** teaches a wireless network client 2 scans the network for discovering wireless access points, creates and stores a list of detected wireless access points containing entries for each discovered wireless local network identifier such as SSID in an 802.11 environment, the MAC address and the signal-to-noise ratio of the corresponding detected wireless access point **(Rao, paragraphs [0010] and [0052-0053])**.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the feature of adding discovered wireless access points information to a client database, as disclosed by **Rao**, into the teachings of **Hsu**. One would be motivated to do so to provide automatic configuration of wireless network client in a wireless local area network environment without the need for user intervention, i.e., automatically obtaining the network identifier and other network related information for the local wireless access point in order to select the best available wireless local area network for accessing **(Rao, paragraph [0058])**.

17.   **Claims 8 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsu, in view of Sundar et al. (US 2003/0134650 A1), hereinafter "Sundar".**

18.   As to claim 8, **Hsu** teaches the method of claim 1, but does not explicitly teach

detecting signature sequences from a wireless local area network.

In an analogous art, **Sundar** teaches detecting signature sequences from a

wireless local area network *(a mobile station 310 may initiate a detection 402 of RF*

energy in the relevant spectrum from a wireless local area network) **(Sundar,**

paragraphs [0055-0058]).

Therefore, it would have been obvious to one having ordinary skill in the art at

the time the invention was made to incorporate the features of detecting signature

sequences *(i.e., RF energy)* from a wireless local area network, as disclosed by

Sundar, into the teachings of **Hsu**. One would be motivated to do so to detect the

presence of a WLAN by detecting the RF energy in the permitted 802.11a/b/g spectrum

(Sundar, paragraph [0055]).

19.   Claims 13-14 are corresponding wireless device claims of method claim 8;

therefore, they are rejected under the same rationale.

Response to Arguments

20.   In the Remarks, Applicant argued in substance that

(A)   **Hsu** makes no teaching, or even suggestion, of scanning and detecting a

WLAN by a "wireless local area network scanner in a wireless device."

As to point (**A**), Examiner respectfully submits that **Hsu** teaches the Mobile

Station MS 300 having a built-in WLAN tuner and a cellular network tuner, or a slotted-

in WLAN tuner card and cellular tuner card, wherein when MS 300 is within range of

accessing AP 320, tuner A 304 scans for a WLAN beacon transmitted by AP 320 (**Hsu,**

paragraphs [0078-0080]).

Hence, **Hsu** does teach, or suggestion, of scanning and detecting a WLAN by a

"wireless local area network scanner in a wireless device," as recited in claim 1.

(**B**)   **Hsu** fails to teach, "receiving and logging said location, on said wireless

device, of said base station of said wireless local area network."

As to point (**B**), before addressing the argument, Examiner respectfully submits

that the language of the limitation cited in the quotation "**base station**" could be given

broad and reasonable interpretation as "**a transmitting/receiving station in a wireless**

local area network (WLAN) that is fixed in location. Base station is a generic

name for access point" (as defined by Answers.com, attached herein at the end as the

evidence).

In this case, **Hsu** teaches upon receipt of the WLAN request from the Mobile

Station MS, the Base Station BS may transmit the information such as location

identification for the WLAN (**Hsu, paragraph [0046]**) and the MS receives and displays

the location information identifying the Access Point AP supporting the WLAN, wherein

the display may provide the AP location in the context of a local map which may be

stored in the MS (**Hsu, paragraph [0052]**).

Hence, **Hsu** does teach, "receiving and logging said location, on said wireless

device, of said base station of said wireless local area network," as recited in claim 9.

(C)   **Rao** cannot render obvious comparing the discovered MAC address to a

database of known MAC address/location and "not requesting a location if the contacted

said base station is already in said database," as recited in claim 5.

As to point (C), Examiner respectfully submits that **Rao** teaches a wireless

network client 2 scans the network for discovering wireless access points, creates and

stores a list of detected wireless access points containing entries for each discovered

wireless local network identifier such as SSID in an 802.11 environment, the MAC

address and the signal-to-noise ratio of the corresponding detected wireless access

point **(Rao, paragraphs [0010] and [0052-0053])**.

In this case, it's obvious to one having ordinary skill in the art at the time of the

invention would have readily recognized that **Rao's** disclosed mechanism for

discovering wireless access points and creating a list of detected wireless access points

containing the MAC addresses of the corresponding detected wireless access points

(i.e., discovering and creating a database of known locations of base stations) would not

require to request a location if the detected wireless access point is already in the list

because according to Answers.com, a base station is *"a transmitting/receiving station in*

a wireless local area network (WLAN) that is fixed in location. Base station is a generic

name for access point," hence, as known to ordinarily skilled artisan, the location of the

detected wireless access point (i.e., base station) may be determined through the MAC

address of the corresponding detected wireless access point *(wherein the MAC address is a unique identifier to identify the base station and the base station is fixed in location)*.

Hence, **Rao** does render obvious comparing the discovered MAC address to a database of known MAC address/location and "not requesting a location if the contacted said base station is already in said database," as recited in claim 5.

(D)   **Sundar** and **Hsu**, taken singly, or in any combination, cannot render obvious "detecting signature sequences from a wireless local area network," as recited in claim 8.

As to point (D), Examiner respectfully submits that **Sundar** teaches the presence of a wireless local area network WLAN can inferred by detecting RF energy in the permitted 802.11a/b spectrum *(2.4 GHz band for 802.11b/802.11g and 5 GHz for 802.11a)*. **Sundar** also teaches a mobile station MS 310 may initiate a detection 402 of RF energy in the relevant spectrum to detect if a valid WLAN is present by searching for a beacon frame broadcasted by the WLAN **(Sundar, paragraphs [0055-0058])**.

It would have been obvious to one skilled in the art at the time the invention was made to determine the presence of a valid WLAN by detecting RF energy in the permitted 802.11a/b/g spectrum in searching for a beacon frame broadcasted by the WLAN because one of ordinary skilled in the art would have expected Applicant's invention *(such as, "by scanning for a beacon indicating the presence of a WLAN, the WLAN energy detector may determine that a WLAN is present from the digital signature sequences of the WLAN, without actually attempting to connect to the WLAN,"* as

recited in page 12 of the Remarks) to perform equally well with the method of determining the presence of the WLAN based on the detected RF energy in the permitted spectrum described in **Sundar** as recited in the claim.

Hence, **Sundar** and **Hsu**, taken singly, or in any combination, can render obvious "detecting signature sequences from a wireless local area network," as recited in claim 8.

Conclusion

21.   Applicant's arguments as well as request for reconsideration filed on 05/16/2005 have been fully considered but they are not deemed to be persuasive.

22.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
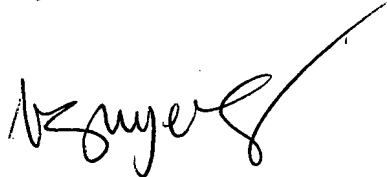
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

23.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang N. Nguyen whose telephone number is (571) 272-3886.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's SPE, Rupal Dharia, can be reached at (571) 272-3880. The fax phone number for the organization is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.   Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Quang N. Nguyen
Patent Examiner
AU – 2141

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